IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Civil Writ Petition No.939 of 2007

Shri Rajkumar Motilal Shah — Petitioner
Vs.
Shri Prakash Nanasaheb Deshpande
and anr. — Respondents

Mr.V.G.Mujumdar for petitioner.
Mr.S.N.Deshpande for respondents.

CORAM: B.H.MARLAPALLE, J.

April 19, 2007.

P.C.

. Heard Mr.Mujumdar, the learned counsel for the petitioner who is impleaded as defendant in Regular Civil Suit No.415 of 2001 filed before the learned Civil Judge, Junior Division at Pandharpur. The defendant submitted an application under Order XXVI Rule 9 of CPC for the appointment of the Court Commissioner on 14/1/2005 and the said application at Exhibit 42 was allowed by the trial Court on 28/3/2006. The defendant was directed to deposit an amount of Rs.750/- as the Commissioner's fees. The defendant did not deposit the said amount and on the contrary an application was taken out on 15/4/2006 praying for time to deposit the amount of fees. This application at Exhibit 53 was allowed with a direction to deposit the amount on the same day.

This order also was not complied with and yet another application came to be filed at Exhibit 55. The same was opposed by filing say at Exhibit 56 and it has been rejected by the impugned order dated 5/9/2006.

. The reasons given by the learned Judge of the trial Court in the impugned order cannot be termed as perverse or grossly erroneous so as to call for interference under Article 227 of the Constitution. Petitioner must face the consequences for his negligence and utterly casual approach.

. The petition is rejected summarily. This order in no way would affect the right of the petitioner to lead evidence.

(B.H.MARL